

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19543
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On March 21, 2006, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for the taxable year 1999 in the total amount of \$2,727.

On May 18, 2006, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but stated they would provide the needed information to bring this matter to a close. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information from the Idaho Department of Labor that showed the taxpayers received wages that were reportable to Idaho. The Bureau researched the Tax Commission's records and found that the taxpayers did not file an Idaho individual income tax return for the tax year 1999. The Bureau sent the taxpayers a letter asking them about their requirement to file an Idaho income tax return. The taxpayers did not respond so the Bureau obtained additional information [Redacted] and determined the taxpayers were required to file an Idaho return. The Bureau prepared a return for the taxpayers and sent them a Notice of Deficiency Determination.

The taxpayers disagreed with the Bureau's determination. They stated they filed bankruptcy in 2002, in which their debts were discharged, including taxes.

The Bureau referred the matter for administrative review, and the Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers did not respond. The Tax Commission sent a follow-up letter to the taxpayers to which they responded that they would be willing to provide additional information if they could get some guidance on what to provide. The Tax Commission provided the taxpayers with the information showing that they had income from Idaho sources in excess of Idaho's filing requirements. The taxpayers implied that after receiving the information they would put together the rest of their documentation and either prepare a return or send it all in for the Tax Commission's consideration. However, after several months and a follow-up correspondence, the taxpayers have provided nothing for the Tax Commission to consider. The Tax Commission, believing that the taxpayers have had ample time to provide whatever additional information they wanted considered, hereby issues its decision based upon the information available.

In 1999, the taxpayers received wages that were reported to the Idaho Department of Labor. The taxpayers also filed a federal income tax return with an Idaho address. The Bureau found [Redacted] purchased a resident Idaho fish and game license on which he claimed to be an Idaho resident since 1997 and [Redacted] acquired an Idaho driver's license in 1999. These are all indications that the taxpayers were residents of Idaho in 1999, which they did not contest. Therefore, since the taxpayers were Idaho residents, they were required to report all their income from whatever source to Idaho. See Idaho Code section 63-3002.

The taxpayers claimed all their taxes were discharged when they filed bankruptcy in 2002. The Tax Commission found that the taxpayers did file for Chapter 7 bankruptcy relief. However, in a Chapter 7 bankruptcy, the debtor liquidates his assets at a point in time to pay off

creditors. Not all debts are dischargeable in a Chapter 7 bankruptcy. Taxes are not dischargeable if the taxes were assessed within three years of the date of the bankruptcy. If the debtor has not filed income tax returns, the taxing authority can pursue collection even after the bankruptcy is discharged. See 11 U.S.C. 523(a).

In this case, the taxpayers did not file an Idaho individual income tax return, and no tax was assessed by the Tax Commission until after the bankruptcy was discharged. Consequently, the taxpayers were not discharged of any income tax that may have been due the state of Idaho.

The taxpayers stated they would provide additional information for the Tax Commission to consider. The taxpayers failed to provide anything. In Idaho, a State Tax Commission Notice of Deficiency Determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayers have not met their burden. Therefore, because of the absence of anything contrary to the return prepared by the Bureau, the Tax Commission upholds the Bureau's determination as a reasonable representation of the taxpayers' taxable income.

The Bureau added penalty and interest to the taxpayers' Idaho tax liability. The Tax Commission reviewed those additions and found them to be in accordance with Idaho Code sections 63-3046 and 63-3045, respectively.

WHEREFORE, the Notice of Deficiency Determination dated March 21, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$1,651	\$ 413	\$ 784	<u>\$2,848</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.
